

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1366

**Introduced by Assembly Members Feuer, Caballero, and
Audra Strickland
(Coauthors: Assembly Members John A. Perez and Salas)**

February 27, 2009

An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that ~~maintains owns or operates~~ a community sewer system *or water recycling facility* within specified areas of the state to take action, by ordinance ~~and after a public meeting~~, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of the state, if the appropriate regional board makes a finding that the control of residential

salinity input will contribute to the achievement of water quality objectives. The bill would state related findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Recycled water provides additional water supplies that are
4 a cost-effective and reliable method of helping to meet California’s
5 water needs.

6 (b) The Water Recycling Act of 1991 established a statewide
7 goal to recycle a total of 700,000 acre-feet of water per year by
8 2000, and one million acre-feet of water per year by 2010.

9 (c) The 2005 California Water Plan indicates that the statewide
10 potential for recycled water use by 2030 is between 900,000
11 acre-feet to 1.4 million acre-feet per year. Based on this projection,
12 the state will fall far short of the goal of recycling one million
13 acre-feet per year by 2010, unless new policies are enacted to
14 accelerate recycled water use.

15 (d) Elevated levels of salinity in community sewer systems can
16 hinder needed water recycling projects, and discharges from those
17 systems may impair groundwater resources and surface waters of
18 the state.

19 (e) The State Water Resources Control Board’s Recycled Water
20 Policy is intended to support an increase in the use of recycled
21 water from municipal wastewater sources in a manner that
22 implements state and federal water quality laws. Some groundwater
23 basins in the state contain salts and nutrients that exceed or threaten
24 to exceed water quality objectives established in the applicable
25 water quality control plans. The policy requires every groundwater
26 basin or subbasin to have a salt and nutrient management plan that
27 includes adequate implementation procedures for achieving or
28 ensuring compliance with the water quality objectives for salt or
29 nutrients.

30 (f) Existing law allows regulation of discharges from industrial,
31 commercial, and agricultural sources, but severely limits local

1 public agencies from regulating salinity discharges from residential
2 self-regenerating water softeners, which can discharge up to one
3 pound of salt per day.

4 (g) The California Water Recycling Task Force Report of 2003,
5 prepared by the Department of Water Resources and the State
6 Water Resources Control Board, recommends that current law be
7 changed to allow local public agencies more control over salinity
8 from residential self-regenerating water softeners.

9 (h) It is the intent of the Legislature to require local public
10 agencies to consider local economic issues and other community
11 input before taking action to regulate residential self-regenerating
12 water softeners.

13 (i) It is the intent of the Legislature, by enacting this act, to give
14 local public agencies additional authority to regulate residential
15 self-regenerating water softeners, especially in areas of the state
16 with water bodies adversely impacted by salinity and high use
17 groundwater basins that are hydrogeologically vulnerable to
18 contamination.

19 SEC. 2. Section 13148 is added to the Water Code, to read:

20 13148. (a) This section applies to the following hydrologic
21 regions as identified in the California Water Plan: Central Coast,
22 South Coast, San Joaquin River, Tulare Lake, and the Counties of
23 Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

24 (b) Notwithstanding Article 1 (commencing with Section
25 116775) of Chapter 5 of Part 12 of Division 104 of the Health and
26 Safety Code, any local agency that owns or operates a community
27 sewer system or water recycling facility that is subject to a finding
28 made by a regional board pursuant to subdivision (e) may take
29 action to control salinity input from residential self-regenerating
30 water softeners to protect the quality of the waters of the state. ~~A~~
31 ~~local agency may take action only by enactment of an ordinance~~
32 ~~after a public hearing. The local agency shall allow interested~~
33 ~~members of the public a reasonable opportunity at the public~~
34 ~~hearing to testify with regard to the matters under consideration,~~
35 ~~including, but not limited to, water quality issues, benefits to~~
36 ~~customers of the local agency, and financial considerations related~~
37 ~~to implementation of an ordinance. The local agency shall consider~~
38 ~~the testimony in making its decision. A local public agency shall~~
39 ~~not consider the enactment of an ordinance until at least 30 days~~
40 ~~following the public hearing on the proposed ordinance. An~~

1 ordinance shall become effective 30 days from the date of final
 2 passage. For purposes of this section, a local agency shall act by
 3 ordinance. Absent the authority of a local agency to adopt
 4 ordinances pursuant to its principal act or governing statute, the
 5 local agency shall adopt an ordinance in accordance with Article
 6 7 (commencing with Section 25120) of Chapter 1 of Part 2 of
 7 Division 2 of Title 3 of the Government Code.

8 (c) Actions to control residential self-regenerating water softener
 9 salinity inputs authorized by subdivision (b) include, but are not
 10 limited to, actions to do any of the following:

11 (1) Require that residential self-regenerating water softeners
 12 sold within the jurisdiction of the local agency be rated at the
 13 highest efficiency commercially available.

14 (2) Require that plumbing permits be obtained prior to the
 15 installation of residential self-regenerating water softeners.

16 (3) Require that residential self-regenerating water softeners be
 17 plumbed to hook up to hot water only.

18 (4) Require that potassium chloride be used in residential
 19 self-regenerating water softeners instead of sodium chloride, if
 20 water quality conditions warrant.

21 (5) Enact a voluntary buy-back program for the removal of
 22 existing residential self-regenerating water softeners, consistent
 23 with existing law. A voluntary buy-back program may be
 24 conducted in cooperation with local water treatment businesses.

25 (6) Require the removal of previously installed residential
 26 self-regenerating water softeners.

27 (7) Prohibit the installation of residential self-regenerating water
 28 softeners.

29 (8) Require the retrofit of clock control and demand control
 30 systems on previously installed residential self-regenerating water
 31 softeners.

32 (9) Require the replacement of previously installed residential
 33 self-regenerating water softeners with appliances that meet or
 34 exceed the salt efficiency rating set forth in paragraph (2) of
 35 subdivision (b) of Section ~~116875~~ 116785 of the Health and Safety
 36 Code.

37 (d) If a local agency adopts an ordinance to require the removal
 38 of previously installed residential self-regenerating water softeners
 39 pursuant to paragraph (6) of subdivision (c), the local agency shall
 40 make available to owners of residential self-regenerating water

1 softeners within its service area a program to compensate the owner
2 of the residential self-regenerating water softener for the reasonable
3 value of the removed residential self-regenerating water softener,
4 as determined by the local agency.

5 (e) Before a local agency may take action to control salinity
6 input from residential self-regenerating water softeners pursuant
7 to subdivision (b), a regional board with jurisdiction over a region
8 identified in subdivision (a) shall have made a finding at a public
9 hearing that the control of residential salinity input will contribute
10 to the achievement of water quality objectives. The finding may
11 be made in any of the following water quality actions adopted by
12 a regional board:

13 (1) A total daily maximum load that addresses salinity-related
14 pollutants in a water segment.

15 (2) A salt and nutrient management plan for a groundwater basin
16 or subbasin.

17 (3) Waste discharge requirements for a local agency discharger.

18 (4) Master reclamation permit for a supplier or distributor of
19 recycled water.

20 (5) Water recycling requirements for a supplier or distributor
21 of recycled water.

22 (6) Cease and desist order ~~for~~ *directed to* a local agency.

23 (f) The regional board making a finding pursuant to subdivision
24 (e) shall base its finding on the evidence in the record. The standard
25 of judicial review required for a finding made pursuant to
26 subdivision (e) shall be the same as the standard of review required
27 for the water quality action in which the finding is made.

28 ~~(g) This section does not require a local agency to adopt an
29 ordinance if a finding is made pursuant to subdivision (b):~~

30 ~~(h)~~

31 (g) This section does not limit the use of portable exchange
32 water softening appliances or limit the authority of a local public
33 agency to regulate the discharge from a centralized portable
34 exchange tank servicing facility into the community sewer system.

35 ~~(i) A local agency that meets the requirements of subdivision
36 (b) is authorized to take action by ordinance to effectuate the
37 purposes of this section whether or not that local agency may
38 otherwise take action by adopting an ordinance.~~

39 ~~(j)~~

1 (h) For purposes of this section, “residential self-regenerating
2 water softener” means residential water softening equipment or
3 conditioning appliances that discharge brine into a community
4 sewer system.

5 SEC. 3. The Legislature finds and declares that it is necessary
6 to address elevated levels of salinity in community sewer systems
7 in specified hydrologic regions of the state. It is therefore hereby
8 declared that a general law within the meaning of Section 16 of
9 Article IV of the California Constitution cannot be made applicable
10 to those specified hydrologic regions and the enactment of this
11 special law is necessary for the public good.